

## Article 66.

### Pork Promotion Assessment Act.

#### **§ 106-790. Title.**

This Article shall be known as the "Pork Promotion Assessment Act." (1991, c. 605, s. 1.)

#### **§ 106-791. Purpose.**

It is in the public interest for the State to enable producers of porcine animals to assess themselves in order to raise funds to promote the interests of the pork industry. (1991, c. 605, s. 1.)

#### **§ 106-792. Definitions.**

The following definitions apply in this Article:

- (1) Association. – The North Carolina Pork Producers Association, Inc., a North Carolina nonprofit corporation.
- (2) Buyer. – Any person engaged as (i) a commission merchant, (ii) an auction market, or (iii) a livestock market in the business of receiving porcine animals for sale on commission for or on behalf of a pork producer.
- (3) Department. – The North Carolina Department of Agriculture and Consumer Services.
- (4) Market. – To sell, slaughter for sale, or otherwise dispose of a porcine animal in commerce.
- (5) Person. – An individual, a partnership, a firm, or a corporation.
- (6) Porcine animal. – Swine raised for seed stock, market hogs, or slaughter.
- (7) Pork producer. – A person who (i) is a North Carolina resident, (ii) owns, manages, or has a financial interest in pork production, and (iii) is actively involved in the production of porcine animals. (1991, c. 605, s. 1; 1997-261, s. 79.)

#### **§ 106-793. Referendum.**

(a) The Association may conduct among pork producers a referendum upon the question of whether an assessment shall be levied on porcine animals sold in this State.

(b) The Association shall determine:

- (1) The amount of the proposed assessment.
- (2) The time and place of the referendum.
- (3) Procedures for conducting the referendum and counting of votes.
- (4) Any other matters pertaining to the referendum.

(c) The amount of the proposed assessment shall be stated on the referendum ballot. The amount may not exceed five cents (5¢) for each porcine animal sold in this State. If the assessment is approved in the referendum, the Association may set the assessment at an amount equal to or less than the amount stated on the ballot. If the Association sets a lower amount than the amount approved by referendum, it may increase the amount annually without a referendum by no more than one cent (1¢) for each porcine animal. The increased rate may not exceed the amount approved by referendum and may not exceed the maximum allowable rate of five cents (5¢) for each porcine animal.

(d) All pork producers may vote in the referendum. Any dispute over eligibility to vote or any other matter relating to the referendum shall be determined by the Association. The Association shall make reasonable efforts to provide pork producers with notice of the referendum and an opportunity to vote. (1991, c. 605, s. 1.)

#### **§ 106-794. Payment and collection of assessment.**

(a) The assessment shall not be collected unless more than half of the votes cast in the referendum are in favor of the assessment. If more than half of the votes cast in the referendum are in favor of the assessment, then the Association shall notify the Department of the amount of the assessment and the effective date of the assessment. The Department shall notify all buyers and pork producers of the assessment.

(b) Each pork producer must pay an assessment on each porcine animal sold to a buyer.

(c) A buyer of a porcine animal shall collect the assessment when buying a porcine animal by deducting the assessment from the price paid for the animal. The buyer shall remit collected assessments to the Department no later than the 10th day of the following month. The Department shall provide forms to buyers for reporting the assessment. If the total assessments collected by a buyer in a month are less than twenty-five dollars (\$25.00), the buyer may keep the assessments until the total amount due is at least twenty-five dollars (\$25.00) or the end of the quarter, whichever comes first. All buyers shall file at least one report in each calendar quarter, regardless of the amount due.

(d) A buyer of porcine animals shall keep records of the number of porcine animals purchased and the date purchased. All information or records regarding purchases of porcine animals by individual buyers shall be kept confidential by employees or agents of the Department and the Association, and shall not be disclosed except by court order.

(e) The Association may bring an action to recover any unpaid assessments, plus the reasonable costs, including attorney fees, incurred in the action. (1991, c. 605, s. 1.)

#### **§ 106-795. Use of assessments; refunds.**

(a) The Department shall remit all funds collected under this Article to the Association at least monthly. The Association shall use the funds to promote the interests of the pork industry. In order to prevent duplication of effort, these funds shall not be used for activities funded under 7 U.S.C. Chapter 79, Pork Promotion, Research, and Consumer Information.

(b) A pork producer may request a refund of an assessment deducted from the sales price of a porcine animal sold by the producer by submitting a written request for a refund to the Association within 30 days after the buyer of the animal collected the assessment. A refund request must be accompanied by proof of payment of the assessment satisfactory to the Association. The Association shall mail a refund to the producer within 30 days of receipt of a properly documented refund request. (1991, c. 605, s. 1.)

#### **§ 106-796. Termination of assessment.**

Upon receipt of a petition signed by at least ten percent (10%) of the pork producers in North Carolina known to the Association, the Department shall notify the Association, and the Association shall, within six months, conduct a referendum upon the question of continuing the assessment. If a majority of the votes cast in the referendum are against continuing the assessment, or if the Association fails to conduct a referendum within the six-month period, the assessment

expires at the end of the six-month period. If a majority of the votes cast in the referendum are in favor of continuing the assessment, then no subsequent referendum shall be held for at least three years. (1991, c. 605, s. 1.)

**§ 106-797. Reserved for future codification purposes.**